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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,251	09/09/2003	Geronimo E. Lat	14305	4121

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EXAMINER

SHARP, JEFFREY ANDREW

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 08/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/658,251

Applicant(s)

LAT ET AL.

Examiner

Jeffrey Sharp

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Status of Claims*

- 1                                      Claims 1-13 are pending.

### *Specification*

- 2                      The disclosure is objected to because of the following informalities:

When referring to element "10", the applicant uses the term "fastener" and "clip" interchangeably. The applicant is urged to use the same terminology when referring to the same element.

Paragraph 0023 has typographical spacing error "clip10".

Angle " $\alpha$ " is erroneously written "a", particularly in paragraph 0019.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

- 3                      The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

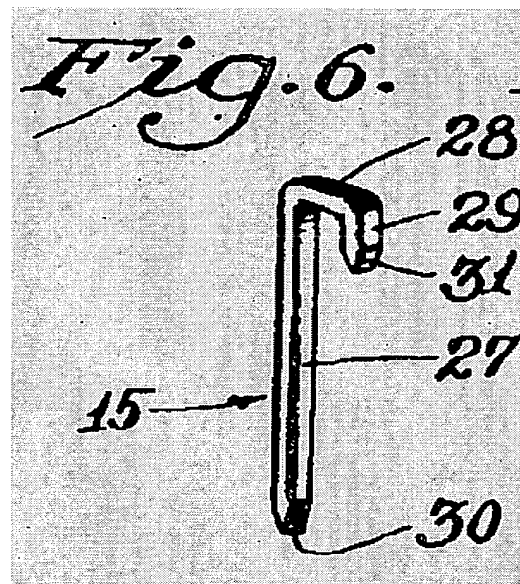
A person shall be entitled to a patent unless —

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-7, and 10-13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Crooks US-2,314,481.

Crooks discloses a fastener (15) comprising: a bridge portion (28); a first prong (27) extending in a driving direction from said bridge portion; and a second prong (29) spaced from said first prong and extending generally parallel thereto in the driving direction from said bridge portion; wherein said second prong is substantially shorter than said first prong (See Figure 1 Crooks US-2,314,481).



**Figure 1.** Crooks US-2,314,481 – fastener

Crooks also discloses a strip of fasteners comprising: a plurality of fasteners connected together in a side-by-side array, wherein each fastener includes a bridge portion, a first prong extending in a driving direction from said bridge portion, and a second prong spaced from said first prong and extending generally parallel thereto in the

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driving direction from said bridge portion, wherein said second prong is substantially shorter than said first prong; wherein each one of said first prongs is aligned generally in a first plane and each one of said second prongs is aligned generally in a second plane so as to form said strip of fasteners (See Figure 2 Crooks US-2,314,481).

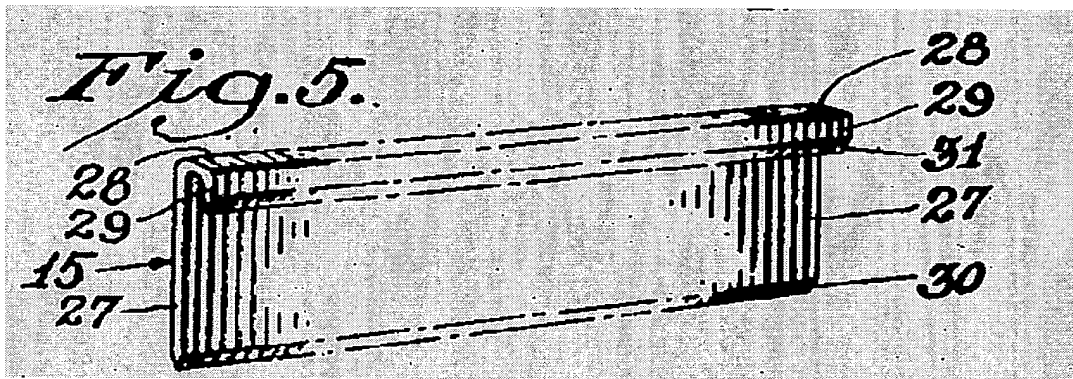


Figure 2. Crooks US-2,314,481 – strip of fasteners

As for claim 1, the body of the claim does not make reference to any “object” or “predetermined distance” or “substrate” (stated in the preamble’s statement of intended use). Therefore, claim 1 is not limited by these elements.

As for claim 2, see Figure 1 above.

As for claim 3, see Crooks-US-2,314,481 Pg 2 Col 2 Lines 16-17, “...with leg 29 of no greater, and preferably shorter length...”.

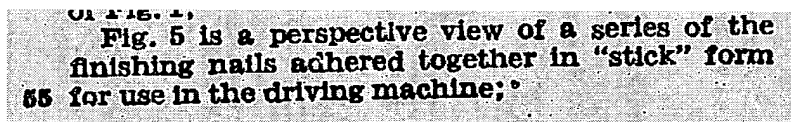
As for claim 5, see Figure 1 above.

As for claim 6, see Figure 1 above.

As for claim 7, see Crooks-US-2,314,481 Pg 2 Col 2 Lines 23-24, “A preferred material for making the nail comprises a flattened steel wire”.

As for claim 10, see Figure 2 above.

As for claim 11, see Crooks-US-2,314,481 Pg 1 Col 2 Lines 53-55 shown below in Figure 3, as well as Figure 2 above.



**Figure 3.** Crooks US-2,314,481 – use of adhesive

As for claim 12, see Figure 2 above.

As for claim 13 see Figure 2 above.

#### ***Claim Rejections - 35 USC § 103***

4 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crooks US-2,314,481 as described above, in view of the old and well known variations and standards for construction staples and the like.

Crooks teaches a fastener and plurality of fasteners as discussed in section 3 above. Crooks does not teach a fastener having: 1) a bridge having a length of ½ inch,

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first prong having a length of  $1 \frac{1}{4}$  inches, and second prong having a length of  $\frac{7}{16}$  inch 2) a thickness of about 0.05 inches and width of about  $\frac{1}{16}$  inch 3) material of shaped 1018 carbon steel wire.

The old and well-known standards and conventions for construction staples and the like teaches a medium crown staple having  $1 \frac{1}{4}$  inch prongs,  $\frac{1}{2}$  inch bridge, and 16 gauge steel material (cross-sectional thickness of about 0.05 inches and cross-sectional width about  $\frac{1}{16}$  inch). See enclosed references.

It would be obvious at the time of invention to one with ordinary skill in the art, to modify the dimensions and material of the fastener taught by Crooks, so that it conforms or adapts to conventional staple guns, standards, and the like.

As for claim 9, 1018 carbon steel provides no significant improvement over other conventional carbon steels used for staples, and serves the same purpose of allowing the fastener to penetrate hard substrates. The applicant has not addressed how a fastener made from 1018 carbon steel provides a significant improvement over conventional methods of manufacture. Further, the fastener taught by Crooks would have been expected by those of ordinary skill in the art to perform equally well with 1018 carbon steel, because it is stiff enough to penetrate hard substrates. Therefore, it would have been an obvious matter of design choice to modify Crooks to obtain the invention as specified in claim 9.

### ***Conclusion***

5      The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure.

US-1,087,264 Sheppard shows a fastener suspending an object over substrate.

US-1,957,467 Menninger shows a fastener suspending an object over substrate.

US-1,610,082 Francis shows a similar fastener suspending an object over substrate.

US-3,339,448 McKee shows a similar fastener suspending an object over substrate.

US-2,589,491 Goodstein shows similar fasteners, and strips of fasteners.

US-312,460 Haight shows a similar fastener.

US-4,257,200 Hensley et al. show a similar fastener.

US-2,533,062 Spink shows a similar fastener.

US-717,554 Doan shows a similar fastener.

US-324,126 Le Gay shows a similar fastener.

US-401,343 Gildemeyer shows a similar fastener.


US-2,887,004 Stewart shows a similar fastener.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Sharp whose telephone number is (703) 305-2693. The examiner can normally be reached on 7:30 am - 5:00 pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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